United Nations S/2003/1041

Security Council

Distr.: General
27 October 2003

Original: English

Letter dated 23 October 2003 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

I write with reference to my letter of 6 August 2002 (S/2002/908).

The Counter-Terrorism Committee has received the attached supplementary report from Uganda, submitted pursuant to paragraph 6 of resolution 1373 (2001) (see annex).

I would be grateful if you could arrange for the present letter and its annex to be circulated as a document of the Security Council

(*Signed*) Inocencio F. **Arias**
Chairman
Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

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Annex

Note verbale dated 20 October 2003 from the Permanent Mission of Uganda to the United Nations addressed to the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

The Permanent Mission of the Republic of Uganda to the United Nations presents its compliments to the Chairman of the Counter-Terrorism Committee and has the honour to forward the report of Uganda in response to the questionnaire from the Committee (see enclosure).

Enclosure

Supplementary report of Uganda to the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

I: BACKGROUND

Uganda has suffered acts of terrorism since 1988 committed by the so- called Lord's Resistance Army (LRA) and since 1994 by the Allied Democratic Forces (ADF). From 1997 to 2001 50 people died and 200 were injured from bombing terrorist attacks in Kampala and surrounding areas. There is evidence that the simultaneous terrorist attacks against United States Embassies in Dar-Es-Salaam and Nairobi had also been planned to include the US Embassy in Kampala.

A Joint Anti Terrorist (JAT) task force to arrest the situation was established in 1999. JAT comprises the Department of Military Intelligence (lead agency), the Police Criminal Investigation Department (CID) and Special Branch (SB), the External Security Organisation (ESO) and the Internal Security Organisation (ISO).

The United States government has listed the Allied Democratic Forces (ADF) and the Lord's Resistance Army among the Terrorist organisations. The LRA and ADF have had links with Al-qaida.

It is against this background that Uganda reaffirms its commitment to work with International Community to eradicate the scourge of terrorism.

II: Paragraph 1 of Resolution 1373 (2001)

(a) Prevention and suppression of the Financing of Terrorism:

Financing institutions have hitherto only been required to cooperate with anti-terrorism investigations by JAT. Mainstreaming their participation in the fight against terrorism is under way. So is the participation of the other stakeholders listed in UNSC Resolution 1373 (2001).

Some preliminary contacts have been made with US Treasury officials to sharpen this sector's understanding of the problem.

At the end of 2001 the Uganda Anti- Money Laundering Committee issued a policy document designed to strengthen the fight against money Laundering. The document on combating money Laundering was presented to and passed by Cabinet in 2002. The policy recommendations advocated for consist in the adoption and subsequent implementation of a number of policies and strategies – legal, regulatory and enforcement, and the assignment of responsibilities to key players in the fight against money laundering and terrorism. The policy document forms the basis for the draft anti-money laundering law for Uganda.

The Anti- Terrorism Act, No 14/2002, which came into force on 7th June 2002, applies to inter alia all financial institutions and their intermediaries in Uganda. Whilst the Act confers no specific powers or obligations on supervisory and other financial sector authorities to combat (the financing of) terrorism in Uganda, the Act criminalizes terrorism and it's financing. Financial institutions are thus enjoined together with law enforcement authorities in Uganda to monitor compliance with the anti-terrorism legislation in Uganda. Financial institutions are now required to adhere to and follow anti-money laundering guidelines which are aimed at combating money laundering and terrorism as a predicate offence thereof.

(b) Criminalizing the wilful provision or collection, by any means, directly or indirectly, of funds by their nationals or in their territories with the intention that the funds should be used, or in the knowledge that they are to be used, in order to carry out terrorist acts.

Section 10 of the Anti-Terrorism Act 2002 states as follows:

'Any person who aids or abets or finances or harbours or in any other way renders support to any person, knowing or having reason to believe that the support will be applied or used for or in connection with the preparation or commission or instigation of acts of terrorism, commits an offence and shall, on conviction, be sentenced to death.'

(C) Freeze without delay funds and other financial assets or economic resources of persons who commit, or attempt to commit, terrorist acts or participate in or facilitate the commission of terrorist acts; of entities owned or

controlled directly or indirectly by such persons; and of persons and entities acting on behalf of, or at the direction of such persons and entities, including funds derived or generated from the property owned or controlled directly or indirectly by such persons and associated persons and entities.

(d) Prohibit their nationals or any other persons and entities within their terroritories from making any funds, financial assets or economic resources or financial and other related services available, directly or indirectly, for the benefit of persons who commit or attempt to commit or facilitate or participate in the commission of terrorist acts, or entities owned or controlled, directly or indirectly, by such persons and of persons and entities acting on behalf of or at the direction of such persons.

These issues are dealt with under sections 17, 18 and 19 of the law against terrorism.

Section 17 of the Anti-Terrorism Act states as follows:

(1) A person who:

(a) solicits or invites any other person to give, lend or otherwise make available, whether for consideration or not, any money or other property; or

(b) receives accepts from any other person, whether for consideration or not, any money or other property.

Intending that it shall be applied or used for commission of or in furtherance of or in connection with acts of terrorism, or having reasonable cause to suspect that it may be so used or applied, commits an offence.

(2) A person who:

(a) gives, lends or otherwise makes available to any other person, whether for consideration or not, any money or other property; or
(b) enters into or otherwise concerned in an arrangement by which money or other property is or is to be made available to another person.

Knowing or having reasonable cause to suspect that it will or may be applied or used as mentioned in subsection (1), commits an offence.

Section 18 lays down the offence committed by persons who make contributions to resources of terrorist organisations while section 19 deals with the offence of assisting in the retention and control of terrorist funds.

The penalties for these offences are:

-Forfeiture of the money or property,
-Imprisonment not exceeding ten years and
-A large punitive fine.

Uganda at present has no law on money laundering. The BOU did, however, in December 2002, as an interim measure, issue anti-money laundering guidelines to financial institutions in Uganda. The guidelines require financial institutions to put in place various anti-money laundering policies and measures, to institute the requisite internal control measures and generally to comply with at least certain broad minimum requirements such as the "Know Your Customer/Client" principle(s) and to report any suspicious activities to the Bank of Uganda for further investigation. If the guidelines are fully implemented by financial institutions, then suspicious financial transactions will to a large extent be monitored.

- **Whether financial institutions, other intermediaries (e.g. lawyers) and other natural or legal persons are required to report suspicious transactions to the relevant authorities? Penalties that apply to those who omit to report?**

The Anti-money laundering guidelines mentioned above require financial institutions to report suspicious activities to the Bank of Uganda for further investigation. The guidelines are not enforceable and consequently, no penalties apply to institutions that omit to report. The Bank of Uganda may, however, apply its wide supervisory powers and sanctions against an institution that is found actively supporting terrorism and money laundering. Other intermediaries (e.g. lawyers and other natural or legal persons) are

currently not subject to any (penal) reporting requirement for suspicious transactions.

- **Practical controls and surveillance measures that exist to ensure that funds and other economic resources collected for religious, charitable or cultural purposes are not diverted to other purposes, particularly to the financing of terrorism?**

Presently, financing terrorism is a crime under the Anti-Terrorism Act, No.14/2002 (Part V, Sections 12-16 thereof). To avert being party or privy to this offence, donors, tec. must ensure that funds and resources for religious or cultural purposes are not used to finance terrorism or divert to other purposes.

- **Laws and procedures available to regulate alternative remittance systems, including systems of, or similar to the kind known as hawala.**

Presently, Uganda has no laws to regulate alternative remittance systems.

- **Procedures for the freezing and provisional seizure of funds and assets relating to terrorism and its financing. State distinction between seizures occurring in the course of investigations and confiscations ordered upon sentencing.**

Section 16 of the Anti-Terrorism Act, No. 14/2002 permits/provides for the forfeiture (upon applying for and obtaining a court order) of terrorist assets.

Under section 262 B of the Penal Code Act (Cap. 106, LOU), a bank account may be frozen under a court order upon application by the Director of Public Prosecutions.

III: Paragraph2:

(a) Refraining from providing any form of support, active or passive, to entities or persons involved in terrorist acts, including by suppressing recruitment of members of terrorist groups and eliminating the supply of weapons to terrorists.

The Firearms Act 1970 and the Anti-terrorism Act 2002 section 7 caters for the prevention of terrorists obtaining weapons within or outside its territory in particular small arms or light weapons.

The Anti-Terrorism Act 2002 also addresses this in section 8,9, 10, 11 and 12.

Section 9 specifically caters for the offences relating to the supply of weapons to terrorists while section 10 tackles those who support and abet terrorism. Section 11 addresses recruitment of terrorists and establishment of terrorist organisations with section 12 devoted to the offence of misprision of terrorism.

The sentence prescribed for supply of weaponry or explosives is 'death' on conviction. So is the sentence for recruiting, financing, and harbouring terrorists. Misprision of terrorism carries a life sentence under the act.

Uganda is a signatory to various international Conventions against terrorism and their domestication in the newly strengthened anti-terrorism law is in progress. Though the laws of the country are unequivocal in the fight against domestic terrorism the sections dealing with the international aspects were found wanting. The new laws being drafted will therefore give special attention to the globalisation of terrorism.

(b) Take the necessary steps to prevent the commission of terrorist acts, including by provision of early warning to other states by exchange of information.

(c) Deny safe haven to those who finance, plan, support or commit terrorist acts, or provide safe havens.

(d) Prevent those who influence, plan, support or commit terrorist acts from using their respective territories for those purposes against other states or their citizens.

(e) Ensure that any person who participates in the financing, planning, preparations of terrorist acts or in supporting terrorists acts is brought to justice and ensure that, in addition to any other measures against them, such terrorists acts are established as serious criminal offences

in domestic laws and regulations and that the punishment duly reflects the seriousness of such terrorist acts.

The Joint Anti- terrorism task force; which started work in 1999, has been the lead authority in combating terrorism. Following the bombing of the United States' Embassies in Nairobi and Dar-Es-Salaam, JAT re-interrogated all suspects previously cleared of terrorism and related crimes. The possible link between domestic terrorism to Osama Bin Laden and the Al Qaida started getting more into focus.

JAT has exchanged information with many Embassies accredited to Uganda and has carried thorough investigations on any reported terrorist threats.

The Uganda Police Force began sensitisation campaigns nationwide in order to bring the international dimension of terrorism to the attention of the general public.

No information sharing arrangements and/or inter-agency co-ordination arrangements between the authorities responsible for combating money laundering and the financing of terrorism are in place (as yet) in Uganda.

LEGISLATION

Under the Penal Code terrorism had not been accorded the seriousness that it deserved. Enforcement agents did not have proper tools to tackle the complex investigations that are needed to net and prosecute perpetrators of terrorist acts and their networks. It is for this reason that Uganda drafted a new law specifically dealing with terrorism. Although it appears comprehensive in response to domestic terrorism it may be wanting in response to global terrorism and will therefore be studied further to domesticate Uganda's international obligations in the fight against terrorism.

Section 13 of the Anti- Terrorism Act has, in addition to the sections mentioned above, and lays down the offence committed by persons who neglect to prevent acts of terrorism. This offence attracts a sentence of five years on conviction with hefty and punitive fine.

The law also has in the second schedule a list of terrorist organisations, which the Minister for Internal affairs can update from time to time. This list is to be updated to include the lists that have been adopted under the various UNSC resolutions.

It is an offence under the laws of Uganda to be a member, whether passive or active, of a terrorist organisation and conviction for this offence attracts a sentence of ten years imprisonment.

PROSECUTIONS

Between 1999 and 2001 the JAT arrested and charged over sixty persons who had committed varying acts of terrorism but were charged with Treason in the absence of an appropriate law.

There was only one conviction during the period.
The possible reasons for the low prosecution success rate were:

- Overzealous law enforcement personnel missing out on key evidence.
- Lack of technical evidence because of few or poor technical personnel e.g. forensic, photographic, ballistic experts.
- Lack of commitment by prosecution witness.
- Absence of funds to compensate witnesses' lost time and earnings.
- Little awareness about terrorism among the general public.
- The passing of the Amnesty law, which provided an escape route for treason suspects.

(f) Afford one another the greatest measure of assistance in connection with criminal investigations proceedings relating to finance or support of terrorist acts, including assistance in their possession necessary for the proceedings.

Uganda has worked recently with Kenyan tracking down ADF terrorist who were using Kenyan territory to plan and train perpetrators of terrorist attacks in Uganda. The two countries together with Tanzania do exchange information among the Intelligence organs and it the objective of the newly reactivated East African Community to make East Africa one security zone in the not too distant future.

Uganda is also pursuing LRA terrorist in cooperation with the Government of Sudan.

There has also been some improvement in the cooperation in that area between Uganda and Rwanda.

Pursuant to Article 1 of the MOU signed between the member countries of the East and Southern Africa Anti-money Laundering Group (ESAAMLG), Uganda agreed to implement all measures contained in multilateral agreements and initiatives to which it subscribes for prevention and control of the laundering of the proceeds of all serious crimes.

- **Legal timeframe within which a request for judicial assistance in the criminal investigations or criminal proceedings (especially those relating to the financing or other support of terrorists acts) must be met and how long, on average it takes in practice to implement such a request in Uganda.**

No specific time frame exists for complying with a request for judicial assistance in the criminal investigation or proceedings (especially those relating to the financing of terrorism or other support of terrorism).

(g) Prevent the movement of terrorists groups by effective border controls and controls on issuance of identity papers and travel documents, and thorough measures for preventing counterfeiting, forgery or fraudulent use of identity papers an travel documents.

BORDER CONTROLS

Uganda has signed and ratified all UN and other International Conventions on Terrorism including AU and other regional Treaties.

All Ugandan's entry points are manned 24 hours a day by police, Immigration personnel and the intelligence and security Services. Over ten people have for example been netted at Entebbe with forged passports in the last twelve months.

The arbitrariness of the border of most African countries as made by colonialism make their effective patrol prohibitively expensive and therefore beyond the coffers of the respective countries. There are therefore many cross – border routes usually patronised by smugglers, which could be available for use, by terrorist and terrorist groups.

The solution therefore lies in the creation of regional security zones like the one envisaged under the East African Community

- **Mechanism for inter-agency co-ordination between the authorities responsible for narcotics control, financial tracking and security.**

Presently, Uganda has no specific or explicit information-sharing arrangement or inter-agency co-ordination arrangements between authorities responsible for narcotics control, financial tracking and security, but it is expected that such government inter-agencies co-operate in the execution of their duties.

CONTROL OF TRAVEL AND IDENTITY PAPERS

The Uganda passport was changed in 1993 to include advanced security features and to incorporate information in scannable form.

Uganda has no National Identity Card and is in the process of producing one in the next one year. The committee that has been formed to plan this activity will be sensitised on the requirement by the international Community.

IV: Paragraph 3 of UNSC Resolution 1373 (2001)

(a) Find ways of intensifying and accelerating the exchange of operational information, especially regarding actions or movements of terrorist persons or networks; forged or falsified travel documents; traffic in arms, explosives or sensitive materials; use of communication technologies by terrorist groups; and threats posed by the possession of weapons of mass destruction by terrorist groups;

(b) Exchange information in accordance with international and domestic law on administrative and judicial matters to prevent the commission of terrorist acts;

(c) Cooperate, particularly through bilateral or multilateral arrangements and agreements, to prevent and suppress terrorist attacks and take action against perpetrators of such acts.

International cooperation and exchange of information.

Uganda has liaison arrangements with most of the leading countries engaged in the fight against terrorism and continues to exchange information with them on a regular basis.

Uganda has had productive contacts with and is an active member of the International Criminal Police Organisation (INTERPOL) and is Headquarters to the United Nations African Institute for the prevention of Crime and treatment of offenders (UNAFRI).
At the regional level the treaty for East African Cooperation includes cooperation in security matters and there is regular contact between security and intelligence chiefs.

Uganda is also a signatory to relevant regional and Sub-Regional Declarations, Agreements and Protocols that provide extensively for the exchange of information regarding traffic in arms and explosives and falsified documents.
The Extradition Act caters for legal basis for extradition in Uganda.

(d) Become parties as soon as possible to the relevant international convention and protocols relating to terrorism, including the international Convention for the Suppression of the Financing of terrorism of 9 December 1999.

The following international conventions and protocols, have been ratified:
1. Convention on Offences and certain other committed on Board Aircraft. Tokyo, 14 September 1963.

2. Convention for the Suppression of Unlawful Seizure of Aircraft. The Hague, 16 December 1970.

3. Convention for the Suppression of Unlawful acts against the Safety of Civil Aviation. Montreal, 23 September 1971.

4. Convention on the prevention and punishment of crimes against internationally protected persons, including Diplomatic Agents. 4 December 1973.

5. Convention on the physical protection of nuclear material. Vienna, 26 October 1979.

6. International Convention against the taking of hostages. New York, 17 December 1979.

7. Protocol for the suppression of Unlawful Acts of violence at Airports serving international Civil Aviation. Montreal, 24 February 1988.

8. Convention for the suppression of Unlawful Acts against the safety of Maritime Navigation. Rome, 10 March 1988.

9. Protocol for the suppression of Unlawful Acts against the safety of fixed platforms located on the continental shelf. Rome, 10 march 1988.

10. Convention for the marking of plastic explosives for the purpose of detection. Montreal, 1 March 1991.
11. OAU convention on the prevention and combating of terrorism.

12. Convention of the organisation of the Islamic conference on combating Terrorism.

13. International convention for the suppression of terrorist bombings.

14. International convention for the suppression of the financing of terrorism.

(e) Increase cooperation and fully implement the relevant international conventions and protocols relating to terrorism and Security Council resolutions 1269(1999) and 1368(2001).

Domestic legislation is being studied in order to domesticate relevant provisions of the two resolutions, especially in the areas of international terrorism.

(f) Take appropriate measures in conformity with the relevant provisions and international law, including standards of human rights, before granting refugee status; for the purpose of ensuring that the asylum-seeker has not planned, facilitated or participated in the commission of terrorist acts.

Refugee status in Uganda is determined by refugee Eligibility committee, an inter-ministerial organ and includes the police and the relevant security agencies. Refugee status is only granted after the committee has received the input of the police, security and intelligence agencies.

Uganda has since the events of 11 September 2001 attempted to distinguish 'terrorist' from 'freedom fighter'. This distinction will greatly assist the work of the committee.

(g) Ensure in conformity with international law, that the perpetrators, organisers or facilitators of terrorist acts do not abuse refugee status, and that claims of political motivation are not recognised as ground for refusing requests for the extradition of alleged terrorists.

The United Nations High Commission for Refugees administers refugee camps in Uganda, in close liaison with the office of the Prime minister and the Police special Branch. These organs ensure that refugee abide by the laws of the country.

Uganda rejects the use of terrorism to achieve political objectives. Claims of political motivation cannot therefore constitute a defence against extradition.

D: Paragraph 4 of UNSC Resolution

Notes with concern the close connection between international terrorism and transnational organised crime, illicit drugs, money laundering, illegal arms-trafficking and illegal movement of nuclear, chemical, biological and other potentially deadly materials, and in

this regard emphasizes the need to enhance coordination of efforts on national, sub-regional, regional and international levels in order to strengthen a global response to this serious challenge and threat to international security.

There is increasing awareness in Uganda about organised crime and its possible interface with terrorism. The police force is therefore adapting quickly to this changing global situation. Uganda still needs to catch up with the rest of the international committee on crimes concerning nuclear, biological and chemical weapons.

As pointed out earlier the Uganda Anti-Money Laundering committee has already produced a basic policy paper to reinforce Uganda's capacity in this area.

V. CONCLUSION

Uganda is making progress in the fight against all known forms of terrorism. This is however a new discipline among most stakeholders. A lot of work still remains to be done in the following areas:

- *Sensitisation of law makers and other bureaucrats.*
- *Building up data bases and the creation of requisite information networks.*
- *Increasing capacity among law enforcement and intelligence personnel.*
- *Strengthening the* office *of the National Coordination.*
- *Provide required Anti-Terrorism training for the Financial Sector.*